

## SUBCOMMITTEE: SUBCOMMITTEE #3

## HOUSE BILL NO. 1865

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Fowler)

A BILL to amend and reenact §§ 46.2-1232, 46.2-1233.1, 46.2-1233.2, and 46.2-1233.3 of the Code of Virginia and to repeal § 46.2-1233 of the Code of Virginia, relating to towing fees.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-1232, 46.2-1233.1, 46.2-1233.2, and 46.2-1233.3 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-1232. Localities may regulate removal or immobilization of trespassing vehicles.**

A. The governing body of any county, city, or town may by ordinance regulate the removal of trespassing vehicles from property by or at the direction of the owner, operator, lessee, or authorized agent in charge of the property. In the event that a vehicle is towed from one locality and stored in or released from a location in another locality, the local ordinance, if any, of the locality from which the vehicle was towed shall apply.

B. No local ordinance adopted under authority of this section shall require that any towing and recovery business also operate as or provide services as a vehicle repair facility or body shop, filling station, or any business other than a towing and recovery business.

C. Any such local ordinance may also require towing and recovery operators to (i) obtain and retain photographs or other documentary evidence substantiating the reason for the removal; (ii) post signs at their main place of business and at any other location where towed vehicles may be reclaimed conspicuously indicating (a) the maximum charges allowed by ~~local ordinance, if any,~~ § 46.2-1233.1 for all their fees for towing, recovery, and storage services and (b) the name and business telephone number of the local official, if any, responsible for handling consumer complaints; (iii) obtain at the time the vehicle is towed, verbal approval of an agent designated in the local ordinance who is available at all

times; and (iv) obtain, at the time the vehicle is towed, if such towing is performed during the normal business hours of the owner of the property from which the vehicle is being towed, the written authorization of the owner of the property from which the vehicle is towed, or his agent. Such written authorization, if required, shall be in addition to any written contract between the towing and recovery operator and the owner of the property or his agent, except for vehicles being towed from a locality within Planning District 8 or Planning District 16, which shall not require written authorization if such written contract is in place. Any such written contract governing a property located within Planning District 8 or Planning District 16 shall clearly state the terms on which towing and recovery operators may monitor private lots on behalf of property owners. For the purposes of this subsection, "agent" shall not include any person who either (a) is related by blood or marriage to the towing and recovery operator or (b) has a financial interest in the towing and recovery operator's business.

D. Any such ordinance adopted by a locality within Planning District 8 may require towing companies that tow vehicles from the county, city, or town adopting the ordinance to other localities, provided that the stored or released location is within the Commonwealth of Virginia and within 10 miles of the point of origin of the actual towing, (i) to obtain from the locality from which such vehicles are towed a permit to do so and (ii) to submit to an inspection of such towing company's facilities to ensure that the company meets all the locality's requirements, regardless of whether such facilities are located within the locality or elsewhere. The locality may impose and collect reasonable fees for the issuance and administration of permits as provided for in this subsection. Such ordinance may also provide grounds for revocation, suspension, or modification of any permit issued under this subsection, subject to notice to the permittee of the revocation, suspension, or modification and an opportunity for the permittee to have a hearing before the governing body of the locality or its designated agent to challenge the revocation, suspension, or modification. Any tow truck driver who removes or tows a vehicle, pursuant to any such ordinance, that is occupied by an unattended companion animal as defined in § 3.2-6500 shall, upon such removal, immediately notify the animal control office of the locality in which the vehicle is being removed or towed. Nothing in this subsection shall be applicable to public safety towing.

**§ 46.2-1233.1. Charges for towing and storage of certain vehicles.**

54 ~~A. Unless different limits are established by ordinance of the local governing body pursuant to §~~  
55 ~~46.2-1233, as to vehicles towed or removed from private property, no charges~~ Charges imposed for the  
56 towing or removal from private property, storage, and safekeeping of any passenger car removed, towed,  
57 or stored without the consent of its owner shall not be in excess of the maximum charges provided for in  
58 this section. ~~No hookup~~ Hookup and initial towing ~~fee~~ fees of any passenger car shall not exceed \$150.  
59 For towing a vehicle between ~~seven o'clock~~ 7:00 p.m. and ~~eight o'clock~~ 8:00 a.m. or on any Saturday,  
60 Sunday, or holiday, an additional fee of no more than \$25 per instance may be charged; however, in no  
61 event shall more than two such fees be charged for towing any such vehicle. No charge shall be made for  
62 storage and safekeeping for a period of 24 hours or less. ~~Except for fees or charges imposed by this section~~  
63 ~~or a local ordinance adopted pursuant to § 46.2-1233, no other fees or charges shall be imposed during the~~  
64 first 24-hour period. No towing and recovery business having custody of a vehicle towed without the  
65 consent of its owner shall impose storage charges for that vehicle for any period during which the owner  
66 of the vehicle was prevented from recovering the vehicle because the towing and recovery business was  
67 closed.

68 ~~B. The governing body of any county, city, or town may by ordinance, with the advice of an~~  
69 ~~advisory board established pursuant to § 46.2-1233.2, (i) provide that no towing and recovery business~~  
70 ~~having custody of a vehicle towed without the consent of its owner impose storage charges for that vehicle~~  
71 ~~for any period during which the owner of the vehicle was prevented from recovering the vehicle because~~  
72 ~~the towing and recovery business was closed and (ii) place limits on the amount of fees charged by towing~~  
73 ~~and recovery operators. Any such ordinance limiting fees shall also provide for periodic review of and~~  
74 ~~timely adjustment of such limitations.~~

75 **§ 46.2-1233.2. Advisory board.**

76 Prior to adopting or amending any ordinance pursuant to § 46.2-1232 ~~or 46.2-1233~~, the local  
77 governing body shall appoint an advisory board to advise the governing body with regard to the  
78 appropriate provisions of the ordinance. Members of the advisory board shall only consist of an equal  
79 number of representatives of local law-enforcement agencies and representatives of licensed towing and  
80 recovery operators, and one member of the general public. Any such advisory board shall meet at least

once per year at the call of the chairman of the advisory board, who shall be elected annually from among the members of the advisory board by a majority vote. The chairmanship of any such advisory board for any locality within Planning District 8 shall be for a term of one year and rotate annually between a representative of a local law-enforcement agency, a representative of a licensed towing and recovery operator, and one member of the general public.

**§ 46.2-1233.3. Improper towing; penalty.**

A. This section shall apply only to tow truck drivers and towing and recovery operators removing a vehicle without the consent of its owner from a location in Planning District 8.

B. In addition to any action brought pursuant to subsection B of § 46.2-119, any tow truck driver who violates subsection A of § 46.2-118 or § 46.2-1217, 46.2-1231, or 46.2-1233.1, or any ordinance adopted therefrom, ~~or any ordinance adopted pursuant to § 46.2-1233~~, or any towing or recovery operator who violates subsection B of § 46.2-118 or § 46.2-1217, 46.2-1231, or 46.2-1233.1, or any ordinance adopted therefrom, ~~or any ordinance adopted pursuant to § 46.2-1233~~, is subject to a civil penalty of \$150 per violation. Such penalty shall be collected by the Office of the Attorney General, and the proceeds shall be deposited into the Literary Fund.

**2. That § 46.2-1233 of the Code of Virginia is repealed.**

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